S.B.Criminal Revision Petition No.1323/2007

Tulsiram & Ors.
V.
State of Rajasthan

Date of Order :: 13th December, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kishore Bhambu, for the petitioners.
Mr. V.R.Mehta, Public Prosecutor.

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By this petition under Section 397 read with 401 Cr.P.C. the petitioners have questioned validity, correctness and propriety of the order dated 2.11.2007 passed by learned Additional Sessions Judge, Nimbahera framing charges under Sections 498-A, 304-B, 302 and in alternative 306 IPC.

The contention advanced to challenge the order aforesaid is that the charge No.3 is not only vague but is also indefinite and, therefore, the court below failed to frame a specific and definite charge.

I have perused the charge sheet, relevant portion of that reads as follows:-

> "3- उपर्युक्त तिथि, समय एवम स्थान पर मीराबाई की मृत्यु कारित करने के आशय से जलाकर उसकी मृत्यु कारित कर धारा 302 भा0द0स0 अंतर्गत हत्या का अपराध किया, जो कि मेरे प्रसंज्ञान मे है!

विकल्प मे :-

उपर्युक्त तिथि, समय एवम स्थान पर आपने अपने कृत्यो से श्रीमति मीरा बाई को आत्महत्या करने के लिये दुष्प्रेरित कर धारा 306 भा0द0स0 अंतर्गत दंडनीय अपराध किया, जो कि मेरे प्रसंज्ञान मे है!"

From police report, I found that as a matter of fact the present one is not a case of burn but is of poisoning, thus, the reference of causing death by burn is factually wrong. Apparently, the charge No.3, is indefinite and vague. On basis of consideration of material available, the trial court is required to frame specific and definite charge to frame an opinion for drawing presumption regarding commission of an offence by the accused.

Accordingly, the order dated 2.11.2007 is quashed to the extent it relates to framing of charge under Section 302 IPC and in alternative 306 IPC. The matter is remanded to learned Additional Sessions Judge, Nimbahera to reconsider the matter and if required, to frame definite charge relating to the offence concerned.

The revision petition is disposed of accordingly.

(GOVIND MATHUR),J.

Kkm/ps.